

APPENDIX G

RULES GOVERNING THE COMMITTEE ON DISCIPLINE FOR THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF GEORGIA

Committee on Discipline for the United States District Court
Northern District of Georgia

1. Procedures Upon the Receipt of a Referral

Upon receipt of a referral, the Chairperson of the Committee on Discipline, the “Committee,” shall notify the members of the Committee of the referral and call a meeting of the Committee to determine whether there is probable cause to initiate an investigation. For purposes of this preliminary inquiry, the facts set forth in the referral shall be treated as prima facie evidence of the matters referred. If the referral involves a member of the State Bar of Georgia, the Chairperson may inquire as to the pending status of any grievances before the State Bar of Georgia and against the lawyer referenced in the referral and arising out of the referral. The Committee may determine that no actions are warranted by the matters set forth in the referral, in which case the Committee shall notify the Court and the lawyer referenced in the referral and the matter shall be closed unless the Court directs otherwise. The Committee may find probable cause to continue with an investigation, in which case the Chairperson shall notify the lawyer referenced in the referral, and the lawyer shall be given a reasonable period of time to respond in writing to the matters set forth in the referral. Upon the receipt of the response from the lawyer referenced in the referral or the expiration of time for a response, the Committee shall meet and determine whether to proceed with the investigation. If the Committee determines not to proceed with the investigation or suspends the investigation for any reason, including, but not limited to, the pendency of action involving the State Bar of Georgia on the matters referenced in the referral, it shall notify the Court and the lawyers referenced in the referral. If the Committee suspends its investigation, the lawyer referenced in the referral may request in writing that the Committee proceed with its investigation to conclusion, and the decision to proceed or remain in a suspended state of investigation shall be determined by the Committee unless the Court directs otherwise. If an investigation is suspended, the Committee may, at any time, determine to reactivate the investigation.

2. The Investigation

When the Committee determines to continue an investigation, the Chairperson shall appoint one member of the Committee on behalf of the whole Committee to investigate the underlying facts set forth in the matters referenced in the referral and

the response, if any, from the lawyer referenced in the referral. The investigating member of the Committee shall be authorized to interview witnesses, review documents, obtain the service of subpoenas and subpoenas duces tecum issued by the clerk for witnesses or documents, and to discuss the matter directly with the lawyer referenced in the referral or his attorney. At the conclusion of the investigation by the investigating member of the Committee, the investigating member of the Committee shall recommend proposed findings of fact and conclusions of law to the Committee. The Committee shall review the recommendation of the investigating member, prepare its proposed findings of fact, conclusions of law and recommendation to be made to the Court and deliver a copy to the lawyer referenced in the referral or his attorney by certified mail or hand delivery. The lawyer referenced in the referral shall have twenty (20) days to acquiesce in or object to the proposed findings of fact, conclusions of law and recommendation. If the lawyer referenced in the referral acquiesces in or does not timely object to the proposed findings of fact, conclusions of law and recommendation, then they shall be forwarded to the Court with the Committee's written report, with a copy to the lawyer referenced in the referral or his attorney by certified mail or hand delivery. Upon request, the Committee is authorized to furnish a copy of said report or any other information or materials pertaining to said investigation or any hearing resulting therefrom to the disciplinary arm of any state bar association to which the referred lawyer belongs.

3. Hearing

If the lawyer referenced in the referral objects to the proposed findings of fact, conclusions of law and recommendation, he shall notify the Committee and serve the Committee with his response to the proposed findings of fact, conclusions of law and recommendation within twenty (20) days of his receipt of the proposed findings of fact, conclusions of law and recommendation. The Chairperson shall set a hearing before the Committee. No continuances shall be granted except upon providential cause or the lack of a quorum. The burden of going forward on the contested issue of fact in the proposed findings of fact shall be upon the member of Committee who investigated the matter on behalf of the Committee. Except as may be otherwise decided by the Committee in the interest of justice or to prevent manifest injustice, the Federal Rules of Evidence shall apply in all hearings. At the conclusion of the hearing, the Committee shall review the evidence and the law and make a tentative recommendation as to the disposition of the matter referred to the Committee. One member of the Committee shall be assigned by the Chairperson to draft the findings

of fact and conclusions of law and recommendations to the Court, and upon adoption by a majority of the members hearing the matter, the written findings of fact, conclusions of law and recommendations of the Committee shall be transmitted to the Court with a copy to the lawyer referenced in the referral or his attorney by certified mail or hand delivery. Any member of the Committee who participated in the hearing who dissents from the majority view may, but is not required to, transmit his dissent to the Court with a copy to the lawyer referenced in the referral or his attorney.

4. Meetings and Quorum

Members may attend any meeting or hearing by teleconference, and a quorum shall consist of at least three (3) members, provided, however, that the member of the Committee who performed the investigation shall not count toward the quorum at the hearing specified in paragraph 3 above and provided further that the lawyer referenced in the referral may waive the requirement of a quorum.